

MEMO TO: City Council

FROM: Rosemarie Ives, Mayor

DATE: July 17, 2007

SUBJECT: **ORDINANCE: TRANSFER OF DEVELOPMENT RIGHTS
REGULATORY UPDATE**

I. RECOMMENDED ACTION

Adopt the ordinance amending RCDG 20C.50.30-050, 20C.60.30-050, and 20C.70.55-060(3) to update code references, repealing the existing RCDG 20D.200, Transfer & Purchase of Development Rights (TDR) Program, and adopting RCDG 20D.200, Transfer of Development Rights (TDR) Program.

II. DEPARTMENT CONTACT PERSONS

Rob Odle, Director, Planning and Community Development, 425-556-2417
Lori Peckol, Policy Planning Manager, 425-556-2411
Jeff Churchill, Assistant Planner, 425-556-2492

III. DESCRIPTION/BACKGROUND

The purpose of Redmond's Transfer of Development Rights (TDR) program is to provide a market mechanism for preserving wildlife habitat, agricultural areas, and historic resources, while providing value for owners of such properties. The program works by allowing property owners in "sending" areas (those places to be preserved) to transfer or sell the right to develop their land to property owners in "receiving" areas (those places to accept additional increments of development). Over the 11-year history of Redmond's TDR Program, approximately 550 TDRs have changed hands at a total value of over \$16 million, protecting large parts of the Sammamish Valley, as well as wildlife habitat in the Willows/Rose Hill, Downtown, and Southeast Redmond neighborhoods.

The Planning Commission recommends adopting the update as shown in Exhibit 1 to Attachment A in order to accomplish the following:

1. Update criteria for eligible TDR sending areas to conform to language in the updated Critical Areas Ordinance;
2. Add the Gateway Design District as an eligible receiving area;
3. Eliminate the neighborhood cap on TDRs and introduce a parking bonus cap per adopted Comprehensive Plan policy;
4. Update TDR awards to reflect current assessed land values, and more closely align incentives to owners of eligible historic properties with the public benefit achieved via the historic properties preservation easement;

5. As part of Redmond's inclusionary zoning program, grant developers a TDR in lieu of a bonus market rate dwelling if the bonus market rate unit cannot be accommodated on site; and
6. Update obsolete references in the RCDG.

Planning Commission Review and Recommendation. The Planning Commission held three study sessions and a public hearing on the proposed amendments, and the ordinance before the Council is consistent with the Commission's recommendation.

IV. IMPACT

- A. **Service Delivery:** The recommended update to the TDR program is expected to improve service delivery by clarifying sending area eligibility requirements, aligning TDR program language with Critical Areas Ordinance language, and in conjunction with staff efforts to make relevant information available to potential program participants, improving market functioning.
- B. **Fiscal:** The City is not expected to incur costs from the regulatory update itself. One staff member currently administers the program – that is unlikely to change. Staff anticipates that there will be costs associated with targeted mailings and web updates, but that those costs will not be significant.

V. ALTERNATIVES

- A. **Adopt the amendment as recommended by the Planning Commission.** Staff recommends this alternative, since it implements adopted Comprehensive Plan policies and makes necessary changes consistent with updates to the Critical Areas Ordinance.
- B. **Reject the Planning Commission's recommendation.** This action would maintain the existing TDR program regulations. Staff recommends against this alternative because it would result in continued uncertainty over what qualifies as an eligible sending area and would fail to implement Comprehensive Plan policies related to TDR usage limits.
- C. **Modify the proposed amendments.** The City Council considered the Planning Commission's recommendation at its June 26 study session, discussing in particular the parking bonus cap, cash deposit provision, forest canopy provision, and the eligibility of properties that have received reasonable use exceptions. During the course of the study session, Councilmembers expressed overall satisfaction with the Commission's recommendation, and so staff recommends adopting the recommendation as shown in Exhibit 1 to Attachment A of this memorandum.

VI. TIME CONSTRAINTS

The anticipated benefits of adopting the ordinance will not be possible until the City Council takes final action.

VII. LIST OF ATTACHMENTS

Attachment A: Ordinance amending Redmond's Community Development Guide

Exhibit 1: Planning Commission Recommended Amendment

<u>/s/</u>	<u>7/6/07</u>
Robert G. Odle, Planning Director	Date

Approved for Council Agenda: <u>/s/</u>	<u>7/6/07</u>
Rosemarie Ives, Mayor	Date

ATTACHMENT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, AMENDING THE REDMOND MUNICIPAL CODE AND THE REDMOND COMMUNITY DEVELOPMENT GUIDE TO ADOPT REGULATIONS PERTAINING TO THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 2004 the City undertook a major update to its Comprehensive Plan consistent with planning obligations under the Growth Management Act; and

WHEREAS, the City adopted policy LU-19, directing the City to maintain and improve its Transfer of Development Rights (TDR) program; and

WHEREAS, the City adopted policy HO-34, stating that it is the City's policy to provide incentives and bonuses to developers and builders providing affordable housing; and

WHEREAS, the City of Redmond adopted a revised Critical Areas Ordinance (Ord. 2259) that impacts the functioning of the TDR program in 2005; and

WHEREAS, on March 16, 2007 the City provided 60-day notice to state agencies reviewing Comprehensive Plan and development regulation updates of this proposed amendment; and

WHEREAS, a State Environmental Policy Act Checklist was prepared and a Determination of Non-Significance was issued on March 28, 2007 for the proposed amendment; and

WHEREAS, the Planning Commission conducted a public hearing on April 18, 2007 to receive public comment on the proposed amendment; and

WHEREAS, the City Council held a public meeting to review the proposed amendment on June 26, 2007; and

WHEREAS, the City of Redmond desires to amend the Redmond Community Development Guide to update the Transfer of Development Rights Program consistent with adopted Comprehensive Plan policy and updated Critical Areas Ordinance language, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings and Conclusions. In support of the proposed amendment to modify sections 20C.50.30-050, 20C.60.30-050, 20C.70.55-060, and 20D.200 of the Redmond Community Development Guide, the City Council hereby adopts the findings and conclusions contained in the Technical Committee Report dated March 16, 2007, including all related attachments and exhibits to that report, and the Planning Commission Report dated April 18, 2007, including the related attachments and exhibits to that report.

Section 2. Revisions to Commercial Zone Regulations. Section 20C.50.30-050, Receipt of Development Rights in Commercial Zones, of the Redmond Municipal Code and Redmond Community Development Guide is hereby amended as shown in Exhibit 1, incorporated herein by this reference as if set forth in full to this ordinance.

Section 3. Revisions to Business Park, Manufacturing and Industrial Zone Regulations. Section 20C.60.30-050, Receipt of Development Rights in Business Park, Overlake Business and Advanced Technology, Manufacturing Park and Industry Zones, of the Redmond Municipal Code and Redmond Community Development Guide is hereby amended as shown in Exhibit 1, incorporated herein by this reference as if set forth in full to this ordinance.

Section 4. Revisions to Gateway Design District Regulations. Section 20C.70.55-060, Site and Design Requirements, of the Redmond Municipal Code and Redmond Community Development Guide is hereby amended as shown in Exhibit 1, incorporated herein by this reference as if set forth in full to this ordinance.

Section 5. Repealing Transfer and Purchase of Development Rights (TDR) Program. Section 20D.200, Transfer and Purchase of Development Rights (TDR) Program, of the Redmond Municipal Code and Redmond Community Development Guide is hereby repealed and replaced as described in Section 6 below.

Section 6. Updated Transfer of Development Rights Program. Section 20D.200, Transfer of Development Rights (TDR) Program, of the Redmond Municipal Code and Redmond Community Development Guide is hereby adopted as shown in Exhibit 1, incorporated herein by this reference as if set forth in full to this ordinance. Said regulations replace the repealed regulations described in Section 5 above.

Section 7. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

Section 8. Effective Date. This ordinance, being an exercise of a power specifically delegated to the city legislative body, is not subject to referendum, and shall take effect five days after passage and publication of an approved summary thereof consisting of the title.

CITY OF REDMOND

MAYOR ROSEMARIE IVES

ATTEST/AUTHENTICATED:

CITY CLERK, MALISA FILES

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By:_____

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
SIGNED BY THE MAYOR:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. _____

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AMENDED CODE

20C.50.30-050 Receipt of Development Rights in Commercial Zones

- (2) Development rights may be used in GC and RC zones. Projects incorporating additional transferred development rights shall present sufficient documentation in the form of a deed of transfer as required in RCDG 20D.200.10-09020-020, ~~Deed of Transfer~~ ring of Development Rights, Easements, & Deeds and extinguishment document as required in RCDG 20D.200.10-100, Extinguishment Document, to demonstrate that the transfer has been finalized.
- (3) The Transfer of Development Rights (TDR) shall meet all site requirements of the receiving zone except as provided for in RCDG 20D.200.10-~~120050~~, Use of Development Rights.
- (4) ...
- (d) The approved TDRs can be used for any purpose authorized by 20D.200.10-~~120050~~, Use of Development Rights, or its successor. The pedestrian plaza shall be maintained and comply with this subsection for the life of the structure or use incorporating the TDRs.

20C.60.30-050 Receipt of Development Rights in Business Park, Overlake Business and Advanced Technology, Manufacturing Park and Industry Zones.

- (2) Development rights may be used in all BP, OV and MP zones. Projects incorporating additional transferred development rights shall present sufficient documentation in the form of a deed of transfer as required in RCDG 20D.200.10-09020-020, ~~Deed of Transfer~~ ring of Development Rights, Easements & Deeds and extinguishment document as required in RCDG 20D.200.10-100, Extinguishment Document, to demonstrate that the transfer has been finalized.
- (3) The Transfer of Development Rights (TDR) shall meet all site requirements of the receiving zone except as provided for in RCDG 20D.200.10-~~120050~~, Use of Development Rights

20C.70.55-060(3) Gateway Design District (GDD) Zone Site Requirements

The Requirements Chart, RCDG 20C.70.55-060(3), sets forth the dimensional and site requirements for the Gateway design district. Each structure, development or activity in the district must comply with these requirements except when expressly limited to one or more performance areas, in which case each structure, development or activity within each regulated performance area shall comply with such regulations.

Gateway Design District Zone Site Requirements Chart

Site Requirement	Distance/Amount
Minimum Setback of Structures (in feet):	
Perimeter Streets (Avondale Rd. NE, NE Union Hill Road, 178 th Place NE, SR 202, 180 th Avenue NE)	60'/35' ¹
Internal Streets	35'/20' ¹
Rear	35'/20' ¹
Side	35'/20' ¹
Maximum Height of Structures (in feet/stories, whichever is greater)	40'/3 ^{2,3,4}
Maximum Floor Area Ratio <u>without TDRs</u> :	
Regional Retail/Wholesale	.25
Other	.50
<u>Maximum Floor Area Ratio with TDRs⁵:</u>	
<u>Regional Retail/Wholesale</u>	<u>.35</u>
<u>Other</u>	<u>.60</u>
Maximum Site Footprint (percentage of building footprint to land area):	
Regional Retail/Wholesale	.25
Other	.35
Notes:	
¹ See RCDG 20C.70.55-060(5)	

²The maximum height for one corporate headquarters or regional office building located in Performance Area 2 is the greater of five stories, or 70 feet, and shall not be exceeded using TDRs as provided for in 20D.200.

³The maximum height of structures or portions of structures located above parking shall not include the distance between the finished grade of the parking surface and the structure, or the stories of the structure devoted to parking.

⁴TDRs shall not be used in the Gateway Design District Zone to increase maximum height.

⁵Please see 20D.200, Transfer of Development Rights (TDR) Program, for more information.

DELETED CODE

20D.200 Transfer & Purchase of Development Rights (TDR) Program

REPLACEMENT CODE

20D.200	Transfer of Development Rights (TDR) Program
20D.200.10	Transfer of Development Rights Program
20D.200.10-010	Purpose
20D.200.10-020	Sending Area Properties
20D.200.10-030	Receiving Area Properties
20D.200.10-040	Calculating Development Rights
20D.200.10-050	Use of Development Rights
20D.200.10-060	Affordable Housing Bonus
20D.200.10-070	Cash Deposits for Obtaining Development Rights
20D.200.20	Transfer of Development Rights Procedures
20D.200.20-010	Certificate of Transferable Development Rights
20D.200.20-020	Transferring Development Rights, Easements, & Deeds
20D.200.20-030	Partial Sale of Use of Development Rights

20D.200.10 Transfer of Development Rights Program

20D.200.10-010 Purpose

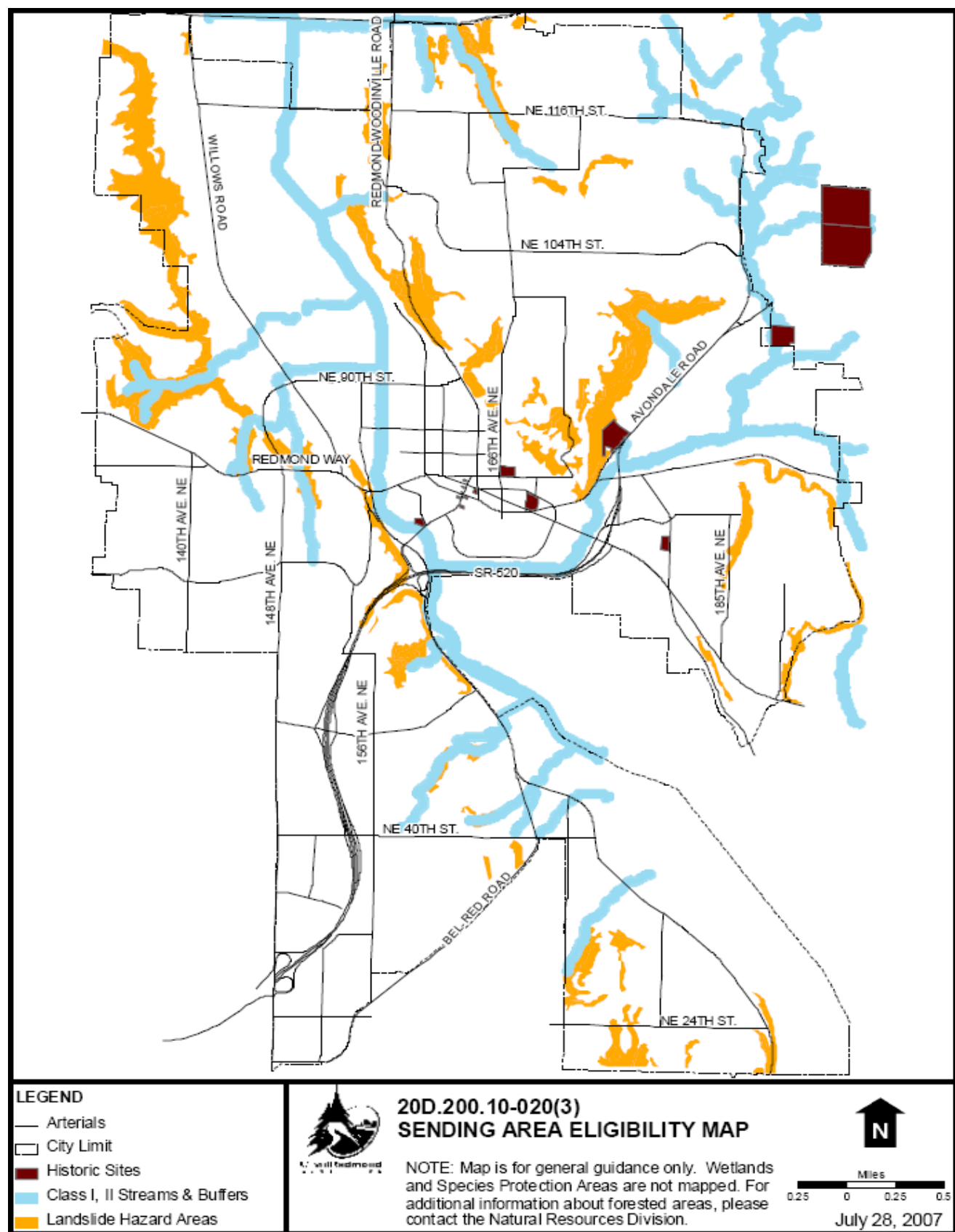
Redmond's Transfer of Development Rights (TDR) program is designed to protect environmentally critical areas, historic resources (including archaeological resources), open spaces, and the ability to provide affordable housing, by transferring the right to develop on the land needing protection to land more suitable for urban development. To accomplish this, the City grants property owners in "sending" areas (i.e., those areas needing protection) transferable development rights that the owner can transfer to another person or legal entity, in return for the conservation or preservation of the protected land.

20D.200.10-020 Sending Area Properties

- (1) The following properties, or portions thereof, may qualify as sending area properties, and thus be eligible for transferring development rights:
 - (a) Property zoned Urban Recreation (UR)
 - (b) Historic sites
 - (c) The following environmentally critical areas:
 - (i) Property within a Species Protection Area (defined in 20D.140.20-010(2))
 - (ii) Property within a Category I or Category II wetland or wetland buffer (defined in 20D.140.30-020)
 - (iii) Property within a Class I or Class II stream or stream buffer (defined in 20D.140.20-010(4))
 - (iv) Property within a landslide hazard area or buffer (defined in 20D.140.60-010(1)(b))
 - (d) Property containing a contiguous forest community characterized by a qualified arborist or ecologist as:
 - (i) Having three layers of vegetation – canopy, subcanopy/shrub, and herb – dominated by native species; and
 - (ii) Having at least 20% of canopy trees estimated to be at least 50 years of age; and
 - (iii) Measuring at least one acre.
- (2) To be eligible for the TDR program, the land shall meet the definition of sending properties in subsection (1) above, and:

Exhibit 1: Planning Commission Recommended Amendment

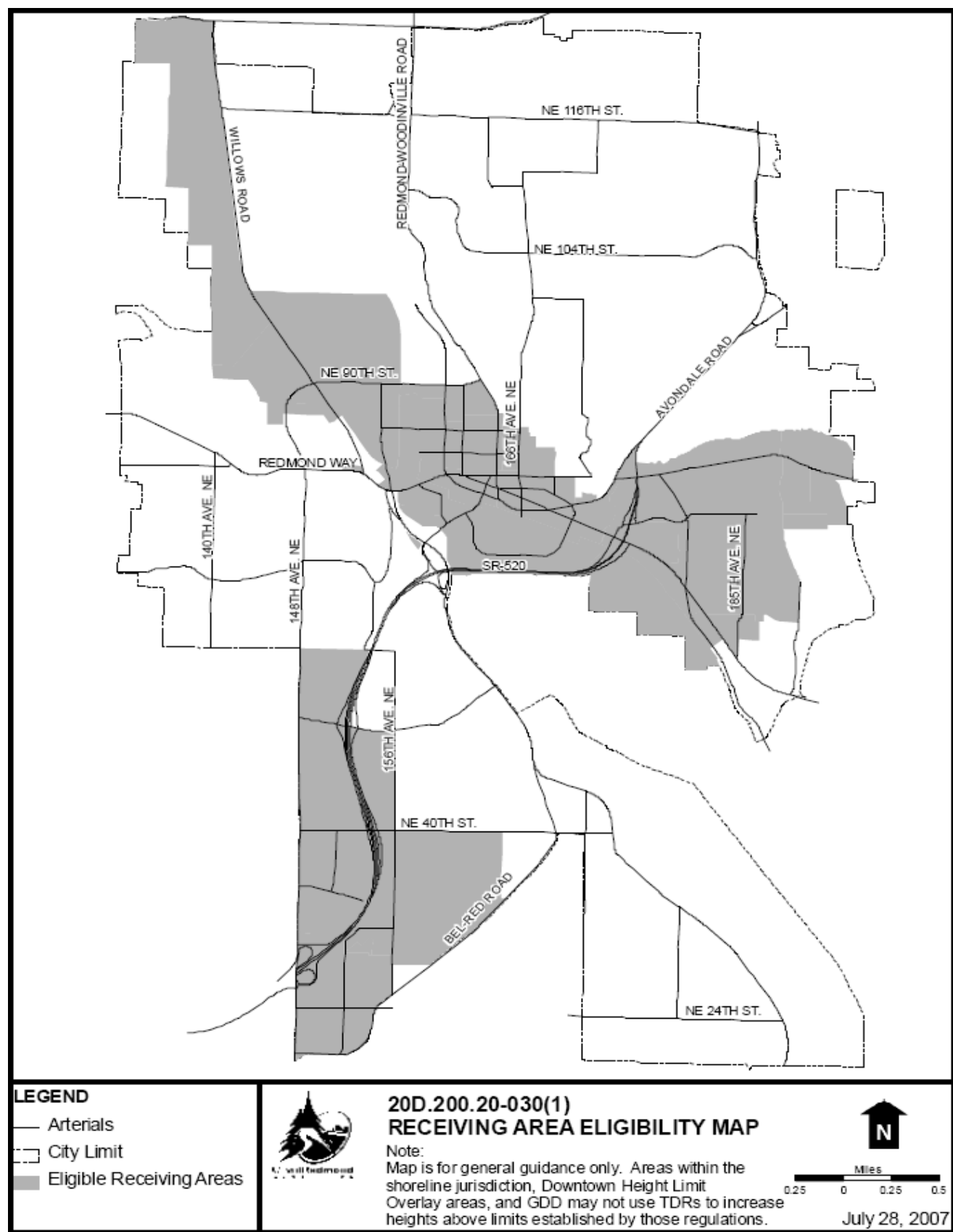
- (a) Be wholly undeveloped or in agricultural or recreational use; or
 - (b) Be partially undeveloped or vacant, where, at the determination of the Administrator, existing uses outside areas defined in (1)(c) and (1)(d) could be maintained without compromising the ecological functions and values of those areas; or
 - (c) Listed on the Redmond Heritage Resource Register or otherwise eligible under 20D.57, Historic and Archaeological Resources.
 - (d) The land's development rights or development capacity shall not have been exhausted, sold, or transferred; or, limited by easements, deed restrictions, equitable servitudes, or similar measures to any of the following:
 - (i) Agriculture, recreation, open space; or
 - (ii) Preservation of environmentally critical areas and their buffers, as defined in subsection (1) of this section, through means including, but not limited to, a native growth protection easement or open space easement;
 - (iii) Alteration by a preservation easement, or through any agreement by any governmental agency or nonprofit organization;
 - (iv) For historic landmarks or historic landmark districts, the significant features shall not have been previously preserved in whole and in perpetuity by a façade, easement, a preservation easement, or through any agreement by any governmental agency or nonprofit organization other than this TDR program.
 - (e) No development rights shall be granted for any property for which a reasonable use has been granted under RCDG 20D.140.10-190, Reasonable Use Provision. Nothing in this chapter shall require that a reasonable use granted under the Reasonable Use Provision equal the economic value of the TDRs granted under this division.
 - (f) No development rights shall be granted for any part of the property the Comprehensive Plan designates for use as a collector, arterial street, or highway.
- (3) Sending Area Eligibility Map. The following map gives general guidance in identifying properties eligible to send TDRs. Some eligible areas, including wetlands and forested areas, are not mapped.



20D.200.10-030 Receiving Area Properties

- (1) Properties eligible to use development rights transferred from sending areas shall be properties within the following zones: all Downtown Districts as defined in 20C.40.10, Downtown Districts; Retail Commercial (RC); General Commercial (GC); Overlake Business and Advanced Technology (OV); Gateway Design District (GDD); Business Park (BP); Manufacturing Park (MP); and Industry (I).

Receiving Area Eligibility Map. The TDR Eligible Receiving Areas map gives general guidance in identifying properties eligible to receive TDRs.



20D.200.10-040 Calculating Development Rights

- (1) The following table assigns development rights multipliers for all eligible sending areas except historic landmarks.

Zone	Development Rights per Acre of Eligible Land	Zone	Development Rights per Acre of Eligible Land
UR	1.1	R-30	8.2
RA-5	1.1	DT ¹	13.8
R-1	1.9	NC	8.1
R-3	6.0	GC	7.6
R-4	6.5	RC	14
R-5	6.9	OV	14
R-6	7.5	GDD	9.5
R-8	8.2	BP	8.7
R-12	8.2	MP	5.7
R-18	8.2	I	5.7
R-20	8.2		

¹DT = all Downtown Districts

- (1) If R4/C pre-annexation zoning is implemented in the North Redmond “wedge” between SR-202 and 154th Place NE, sending area credit will be granted based on the R-1 multiplier in the preceding table.
- (2) If a zone is not listed in the table in this section, the Administrator shall classify the zone in the table row that contains the zone most similar to it.
- (3) Development Right Transfers for Historic Landmarks in a Commercial Zone. For the purpose of awarding TDRs, property in commercial zones with eligible historic structures shall be considered to be vacant, and shall be calculated according to the table in subsection (2) above. For example, a property with a historic structure in a GC zone shall be awarded 7.0 TDRs per eligible acre of the property.

20D.200.10-050 Use of Development Rights

- (1) Each development right may be used as a right for any one of the following, subject to the limitations of this division:
- To authorize an additional 8,712 square feet of floor area;
 - To substitute a requirement to provide 8,712 square feet of public or private park land;
 - To increase the maximum impervious surface or maximum lot coverage by 8,712 square feet provided that the total increase does not exceed 10 percent of the site;
 - To increase the height of a structure, including above-ground structured parking, by one story across each 8,712-square-foot increment of gross floor area or parking floor plate. In no case shall total building height be greater than one story above the height allowed by the underlying zone; the height bonus shall not apply to structures within the shoreline jurisdiction or within the Downtown Height Limit Overlay areas; or
 - Adding up to five parking stalls, provided that the total number of parking stalls does not exceed:
 - 25% above the maximum allowed by the underlying zone in the Downtown and Overlake neighborhoods; or
 - 30% above the maximum allowed by the underlying zone in all other neighborhoods.
 - In no case shall the number of parking stalls permitted by this division exceed 5.0 stalls per 1,000 square feet of gross floor area.
 - This bonus shall not be combined with any other parking ratio bonus.
 - The bonuses in (i) and (ii) above shall expire by July 31, 2012 provided that, no later than the beginning of August 2011, the City shall undertake a study to evaluate whether the bonuses should be modified. That study shall take into account at a minimum an analysis of transit service, commute trip reduction programs, and parking usage. The bonus for the Overlake neighborhood may be amended earlier as a part of the Bellevue Redmond Overlake Transportation Study (BROTS) update.

Exhibit 1: Planning Commission Recommended Amendment

- (2) A fraction of a development right shall be entitled to the corresponding fraction of any of the above.
- (3) A site plan application using transferred development rights shall contain a statement describing the development proposed, the zoning classification of the property, the amount and serial number of the development rights used, how the development rights are proposed to be used, and a notation of the recording number of the conservation easement on file with King County.

20D.200.10-060 Affordable Housing Bonus

- (1) When zoning or site planning constraints prevent project proponents from building bonus market-rate units to which the proponents would otherwise be entitled under 20D.30 Affordable Housing, the Administrator may convert the number of bonus market-rate units not proposed to be contained on the site into TDRs for use or sale.
- (2) If granted, the quantity of TDRs shall be equal to the number of bonus market-rate homes not developed on the project site due to zoning or site constraints.

20D.200.20 Transfer of Development Rights Procedures

20D.200.20-010 Certificate of Transferable Development Rights

- (1) The property owner must file an application with the City for issuance of a certificate of transferable development rights. The Administrator shall set forth the submittal requirements necessary for application.
- (2) The Administrator will verify ownership and qualification of the property for the program. The Administrator will calculate the quantity of development rights based upon the use of the land at the time that the certificate is requested.
- (3) The Administrator will issue the owner certificates of development rights with an assigned serial number stating the quantity of development rights for that property and describing to what portion of the site the certificate shall apply.

20D.200.20-020 Transferring Development Rights, Easements, & Deeds

- (1) Prior to, or concurrent with, the time that the property owner exercises his/her right to sell, transfer, or use such certificates, the following shall be approved by the Administrator and the City Attorney, and the owner shall execute and record in King County's real property records:
 - (a) A TDR conservation easement for environmentally critical areas; or
 - (b) A TDR conservation easement for properties zoned Agriculture or Urban Recreation; or
 - (c) A TDR preservation easement for a historic resource.
- (2) The easement or deed restriction shall place the following restrictions on the property:
 - (a) Properties zoned Agriculture (A) or Urban Recreation (UR) and not containing environmentally critical areas listed in 20D.200.10-020(1)(c), Sending Area Properties, shall be restricted to agricultural or recreational uses by a TDR conservation easement meeting the requirements of this division.
 - (b) Properties containing environmentally critical areas listed in 20D.200.10-020(1)(c) or forest communities described in 20D.200.10-020(1)(d) shall be restricted to use as a fish and wildlife habitat by a TDR conservation easement meeting the requirement of this division.
 - (c) Properties classified as historic landmarks or historic landmark districts shall be restricted by a preservation easement that protects the significant features of the structure and site.
- (3) If the owner is selling or transferring the rights, a deed, as approved by the Administrator, shall be executed by the selling and purchasing parties and recorded with the King County Records and Elections Division transferring ownership of those development rights being sold. The purpose of the deed is to confirm that a developer or investor has purchased the development rights. A copy of the recorded document shall be filed with the King County Assessor's Office and the Redmond Administrator. The deed shall include the recording number(s) of the TDR conservation easement, preservation easement, or TDR deed restriction for the rights being transferred, and a legal description of the land from which development rights are granted.

- (4) Secondary Transfers. A development right may be sold or transferred more than once. If a TDR owner in a receiving area, who has developed according to the regulations in this chapter, later elects to sell the development rights acquired according to this chapter, the improvements allowed through the use of TDRs must first be uninstalled and the land returned to a landscaped condition according to RCDG 20D.80, Landscaping and Tree Protection.

20D.200.20-030 Partial Sale or Use of Development Rights

- (1) The sending area property owner can sell all, none, or part of his/her granted development rights.
- (2) If the sale of development rights from the sending area property owner would entail less than an entire parcel, the following additional regulations shall apply, except to those properties designated as historic landmarks:
 - (a) The portion of the lot involved in the proposed sale of development rights shall be legally described and must be shown on a map. The serial number assigned to the certificate of development rights shall reflect only the portion of the property where development rights have been sold.
 - (b) When a portion of the total available development rights are sold from a lot or property, the future sale of additional development rights from that property shall occur so that the land is contiguous, to the greatest extent possible, to the lands from which development rights were previously sold.
 - (c) If the land subject to the TDR conservation easement is subdivided, within the limitations of the zoning, any new parcel created shall continue to be subject to the TDR conservation easement and shall comply with this division.
- (3) In the case of a historic landmark, the partial sale of development rights shall cause the preservation easement to be executed in full. (Ord. 2164; Ord. 1984; Ord. 1954; Ord. 1873)